

Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SCOTT MILLER, an individual, MICHAEL
SPAULDING, an individual,

Plaintiffs,

v.

KSHAMA SAWANT, an individual. CITY OF
SEATTLE, a municipal corporation,

Defendant.

NO. 2:18-cv-00506-MJP

DECLARATION OF DANIEL A. BROWN
IN SUPPORT OF MOTION TO COMPEL
DEFENDANT SAWANT'S DEPOSITION
AFTER FAILING TO APPEAR FOR
PROPERLY NOTED DEPOSITION AND
FOR SANCTIONS, ATTORNEYS' FEES
AND COSTS

I, Daniel A. Brown, declare as follows:

1. I am a member at Williams Kastner, attorneys for Plaintiffs in this action, and I make this declaration based on my personal knowledge. If called to testify I would be competent to do so.

2. On November 22, 2022, our office noted Defendant Sawant's deposition, to occur in-person, on December 9, 2022. Attached as **Exhibit A** is a true and correct copy of the email in which I emailed the Notice of Deposition of Defendant Sawant as well as a copy of the notice of deposition, which was also mailed by our office the same day.

3 Five days after I sent this notice of deposition to Defense counsel's office—to Mr. Iglitzin—he indicated that he and Ms. Sawant were not available for deposition on

DECLARATION OF DANIEL A. BROWN IN SUPPORT OF
MOTION TO COMPEL DEFENDANT SAWANT'S DEPOSITION
AFTER FAILING TO APPEAR FOR PROPERLY NOTED
DEPOSITION AND FOR SANCTIONS, ATTORNEYS' FEES AND
COSTS - 1
(2:18-cv-00506-MJP)

Williams, Kastner & Gibbs PLLC
601 Union Street, Suite 4100
Seattle, Washington 98101-2380
(206) 628-6600

December 9. Instead he indicated they could be available on December 7, but only via Zoom. I informed Mr. Iglitzin that I was not available on December 7, but that I could be available the following week, on December 13 or 14 and would agree to stipulate to extend (by only two days) the discovery cutoff to accommodate the taking of Ms. Sawant's deposition at a mutually agreeable date in-person. Attached as **Exhibit B** is a true and correct copy of this email exchange between me and Mr. Iglitzin in which I attempted to cooperatively work with his office and his client's schedule.

4. After I had not heard from Mr. Iglitzin for another 6 days, on December 8th at 1:14 pm, I followed up with Mr. Iglitzin again asking if he would be amendable to a mutually agreeable date the following week, and if not, to provide a time the next day or Monday for a 26(i) conference. This email exchange can be found in Exhibit B, which is already attached.

5. The next day, the day of the scheduled deposition, Ms. Sawant did not show up for her deposition (just like she said she would not) and Mr. Iglitzin finally responded to email, suggesting that we speak on the following Wednesday for our meet and confer conference. I responded to him approximately 15 minutes later that it would likely be a very brief call if Defendant would not agree on a workable date the following week and that we should shoot for Monday or Tuesday—(although, had Mr. Iglitzin informed me that Ms. Sawant would *not* show up to her properly noted deposition on a mutually agreeable later date when I initially inquired on November 30th, our office would have filed this motion at least a week earlier). It seems pretty clear that Mr. Iglitzin (or Defendant) attempted to delay a substantive response to my request to find a workable date for everyone or until the discovery cutoff had occurred so that Plaintiffs would be forced to file this motion after the discovery cutoff. It wreaks of bad faith and the type of conduct that gives the legal profession and the court system in general a bad name. This is not how I practice—especially when the other side is trying to accommodate

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(2:18-cv-00506-MJP)

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1 my schedule. These email exchanges between Mr. Iglitzin and myself are all attached as
2 Exhibit B and speak for themselves and should be reviewed by the Court in full.

3 6. On Monday, December 12, Mr. Iglitzin and I briefly spoke (about 2 minutes)
4 and had our 26(i) conference. He refused to make Defendant available for any deposition at
5 this point and seemed to think that by making her available (only via Zoom as I mentioned
6 above) on a date that I did not note her deposition on and on which I was not available,
7 somehow she was not required to ever be deposed and certainly not on the December 9th
8 deposition date I properly noted. I mentioned he should have gotten a protective order if there
9 was not going to be an agreed resetting of her deposition date. He indicated I should proceed
10 by motion as I indicated I would.

11 The foregoing statement is made under penalty of perjury under the laws of the United
12 States of America and is true and correct.

13 DATED this 15th day of December, 2022, at Seattle, Washington.

14 s/Daniel A. Brown

15 Daniel A. Brown, WSBA #22028
16 WILLIAMS, KASTNER & GIBBS PLLC
17 601 Union Street, Suite 4100
18 Seattle, WA 98101-2380
19 Telephone: (206) 628-6600
20 Fax: (206) 628-6611
21 Email: dbrown@williamskastner.com
22 Attorneys for Plaintiffs Miller and Spaulding
23
24
25

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COSTS - 3
(2:18-cv-00506-MJP)

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601 Union Street, Suite 4100
Seattle, Washington 98101-2380
(206) 628-6600

CERTIFICATE OF SERVICE

I hereby certify that on December 15, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all CM/ECF participants.

s/ Daniel A. Brown
Daniel A. Brown, WSBA #22028
WILLIAMS, KASTNER & GIBBS PLLC
601 Union Street, Suite 4100
Seattle, WA 98101-2380
Telephone: (206) 628-6600
Fax: (206) 628-6611
dbrown@williamskastner.com
Attorneys for Plaintiffs Miller and Spaulding

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AFTER FAILING TO APPEAR FOR PROPERLY NOTED
DEPOSITION AND FOR SANCTIONS, ATTORNEYS' FEES AND
COSTS - 4
(2:18-cv-00506-MJP)

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Seattle, Washington 98101-2380
(206) 628-6600

Exhibit A

Cox, Jessica

From: Brown, Daniel
Sent: Tuesday, November 22, 2022 4:51 PM
To: Dmitri Iglitzin; James E. Lobsenz
Cc: Bulis, Diane; Cox, Jessica
Subject: Miller & Spaulding v. Sawant (USDC) deposition notices
Attachments: SAWANT Notice of Dep of Gilbertson - 7679930v1.pdf; SAWANT Notice of Deposition of Lisa Daugaard - 7679928v1.pdf; Notice of Dep - Sawant - 7679502v1.pdf

In light of the Court's order denying the motion to continue, enclosed please find Plaintiff's three notices of depositions (Defendant's and her two experts'). Hard copies will be mailed shortly.

Thank you.

Daniel A. Brown

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P: 206-233-2949 | M: 206-795-4166
www.williamskastner.com | [Bio](#) | [V-Card](#)

WASHINGTON OREGON

From: Dmitri Iglitzin <iglitzin@workerlaw.com>
Sent: Tuesday, March 15, 2022 3:04 PM
To: Cox, Jessica <JCox@williamskastner.com>; James, Sean <SJames@williamskastner.com>
Cc: Brown, Daniel <dbrown@williamskastner.com>; Gabe Frumkin <frumkin@workerlaw.com>; James E. Lobsenz <Lobsenz@carneylaw.com>; Jennifer Woodward <woodward@workerlaw.com>
Subject: RE: Miller & Spaulding v. Sawant (USDC)

Thank you. Of course, I would like a chance to see and approve the revised version, before it is filed.

Dmitri



**BARNARD
IGLITZIN &
LAVITT LLP**

DMITRI IGLITZIN | Partner (he/him)
DIR: 206.257.6003 | **FAX:** 206.257.6038
18 West Mercer Street, Suite 400, Seattle, WA 98119

This communication is intended for a specific recipient and may be protected by the attorney-client and work-product privilege. If you receive this message in error, please permanently delete it and notify the sender.

From: Cox, Jessica [<mailto:JCox@williamskastner.com>]
Sent: Tuesday, March 15, 2022 1:59 PM
To: Dmitri Iglitzin; James, Sean
Cc: Brown, Daniel; Gabe Frumkin; James E. Lobsenz; Jennifer Woodward
Subject: Re: Miller & Spaulding v. Sawant (USDC)

Sounds good. We will adjust and file with the court. Thank you.

Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SCOTT MILLER, an individual, MICHAEL
SPAULDING, an individual,

Plaintiffs,

v.

KSHAMA SAWANT, an individual. CITY OF
SEATTLE, a municipal corporation,

Defendant.

NO. 2:18-cv-00506 MJP

NOTICE OF DEPOSITION OF KSHAMA
SAWANT

TO: ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD

PLEASE TAKE NOTICE that the testimony of **KSHAMA SAWANT** will be taken upon oral examination before a notary public at the law offices of Williams, Kastner & Gibbs PLLC, 601 Union Street, Suite 4100, Seattle, WA 98101, on Friday, the 9th day of **December, 2022**, commencing at the hour of **10:00 a.m.** at the request of Plaintiffs Scott Miller and Michael Spaulding in this action. **This deposition will be conducted in person.**

Said oral examination is subject to continuance or adjournment from time to time or place to place until completed, and to be taken on the grounds and for the reason of discovery.

You are hereby required to give evidence in the above-entitled case.

NOTICE OF DEPOSITION OF KSHAMA SAWANT - 1
(2:18-cv-00506-JLR)

Williams, Kastner & Gibbs PLLC
601 Union Street, Suite 4100
Seattle, Washington 98101-2380
(206) 628-6600

1 RESPECTFULLY SUBMITTED this 22nd day of November, 2022.

2
3 s/Daniel A. Brown
4 Daniel A. Brown, WSBA #22028
5 WILLIAMS, KASTNER & GIBBS PLLC
6 601 Union Street, Suite 4100
7 Seattle, WA 98101-2380
8 Telephone: (206) 628-6600
9 Fax: (206) 628-6611
10 Email: dbrown@williamskastner.com
11 Attorneys for Plaintiffs Miller and Spaulding
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NOTICE OF DEPOSITION OF KSHAMA SAWANT - 2
(2:18-cv-00506-JLR)

Williams, Kastner & Gibbs PLLC
601 Union Street, Suite 4100
Seattle, Washington 98101-2380
(206) 628-6600

CERTIFICATE OF SERVICE

I, Diane M. Bulis, hereby declare under penalty of perjury that on the date noted below
I served the foregoing document on the following parties in the manner described:

James E. Lobsenz Carney Badley Spellman 701 Fifth Avenue, Suite 3600 Seattle, WA 98104 Lobsenz@carneylaw.com; groth@carneylaw.com	<input checked="" type="checkbox"/> E-mail <input checked="" type="checkbox"/> U.S. Mail
Dmitri Iglitzin Barnard Iglitzin & Lavitt LLP 18 W Mercer St, Suite 400 Seattle, WA 98119 iglitzin@workerlaw.com woodward@workerlaw.com; dalmat@workerlaw.com; fernando@workerlaw.com;	<input checked="" type="checkbox"/> E-mail <input checked="" type="checkbox"/> U.S. Mail

s/Diane M. Bulis
Diane M. Bulis, Legal Assistant

Exhibit B

Cox, Jessica

From: Brown, Daniel
Sent: Monday, December 12, 2022 1:46 PM
To: Dmitri Iglitzin
Cc: Cox, Jessica
Subject: RE: Miller & Spaulding v. Sawant (USDC) deposition notices

Dmitri,

The emails say what they say, but I don't remember you offering any date other than December 7th and only if it was via Zoom, both of which were unacceptable to the plaintiffs.

Daniel A. Brown

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WASHINGTON OREGON

From: Dmitri Iglitzin <iglitzin@workerlaw.com>
Sent: Monday, December 12, 2022 1:19 PM
To: Brown, Daniel <dbrown@williamskastner.com>
Cc: Benjamin Berger <berger@workerlaw.com>; Darin Dalmat <dalmat@workerlaw.com>; Jennifer Woodward <woodward@workerlaw.com>
Subject: RE: Miller & Spaulding v. Sawant (USDC) deposition notices

Thank you, Dan. Just to clarify, of course, we did specifically offer to make Ms. Sawant available to be deposed last Wednesday, December 7, via Zoom, for the entire workday, which was prior to discovery cut-off, and you indicated that you were not willing to take the deposition via Zoom any day that week. You and your co-counsel declined to take advantage of that opportunity.

Regards, and best wishes with regard to your mother's medical situation.

Dmitri Iglitzin

DMITRI IGLITZIN | Partner | Barnard Iglitzin & Lavitt LLP

DIR: 206.257.6003 | **FAX:** 206.257.6038

18 West Mercer Street, Suite 400, Seattle, WA 98119

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From: Brown, Daniel <dbrown@williamskastner.com>
Sent: Monday, December 12, 2022 12:05 PM
To: Dmitri Iglitzin <iglitzin@workerlaw.com>
Subject: RE: Miller & Spaulding v. Sawant (USDC) deposition notices

Dmitri,

Thanks for calling this morning. This confirms that you would not agree to allow us to take Ms. Sawant's deposition in the future, since she would not attend her noticed deposition last week prior to the discovery cutoff. Accordingly, as discussed we will proceed by motion practice on this point.

Daniel A. Brown

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WASHINGTON OREGON

From: Dmitri Iglitzin <iglitzin@workerlaw.com>

Sent: Friday, December 9, 2022 3:05 PM

To: Brown, Daniel <dbrown@williamskastner.com>

Cc: Bulis, Diane <dbulis@williamskastner.com>; Cox, Jessica <JCox@williamskastner.com>; Jacob Harsen <harsen@workerlaw.com>

Subject: RE: Miller & Spaulding v. Sawant (USDC) deposition notices

I will call you during a break on Monday or Tuesday. Best # for me to use?



**BARNARD
IGLITZIN &
LAVITT LLP**

DMITRI IGLITZIN | *Partner* (he/him)

DIR: 206.257.6003 | **FAX:** 206.257.6038

18 West Mercer Street, Suite 400, Seattle, WA 98119

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From: Brown, Daniel <dbrown@williamskastner.com>

Sent: Friday, December 09, 2022 2:05 PM

To: Dmitri Iglitzin <iglitzin@workerlaw.com>; Brown, Daniel <dbrown@williamskastner.com>

Cc: Bulis, Diane <dbulis@williamskastner.com>; Cox, Jessica <JCox@williamskastner.com>; Jacob Harsen <harsen@workerlaw.com>

Subject: RE: Miller & Spaulding v. Sawant (USDC) deposition notices

Let's shoot for Monday or Tuesday, lunch time or end of day, I don't care.

If you are not going to agree, it will be a very brief call. If you agree, we don't need a call, just some dates and I'll draft the stipulation. Not sure what the issue is on this.

Dan

Daniel A. Brown

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www.williamskastner.com | [Bio](#) | [V-Card](#)

WASHINGTON OREGON

----- Original message -----

From: Dmitri Iglitzin <iglitzin@workerlaw.com>

Date: 12/9/22 1:44 PM (GMT-08:00)

To: "Brown, Daniel" <dbrown@williamskastner.com>

Cc: "Bulis, Diane" <dbulis@williamskastner.com>, "Cox, Jessica" <JCox@williamskastner.com>, Jacob Harsen <harsen@workerlaw.com>

Subject: RE: Miller & Spaulding v. Sawant (USDC) deposition notices

Hi, Dan. Can we speak on Wednesday morning? I'm out today and then in bargaining on Monday and Tuesday.



**BARNARD
IGLITZIN &
LAVITT LLP**

DMITRI IGLITZIN | *Partner (he/him)*

DIR: 206.257.6003 | **FAX:** 206.257.6038

18 West Mercer Street, Suite 400, Seattle, WA 98119

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From: Brown, Daniel <dbrown@williamskastner.com>

Sent: Thursday, December 08, 2022 1:14 PM

To: Dmitri Iglitzin <iglitzin@workerlaw.com>

Cc: Bulis, Diane <dbulis@williamskastner.com>; Cox, Jessica <JCox@williamskastner.com>

Subject: RE: Miller & Spaulding v. Sawant (USDC) deposition notices

Dmitri,

If you are not going to stipulate to taking Ms. Sawant's deposition in the near future (which is looking that way since you haven't responded on this yet to me), then I need a quick conference with you so I can bring a motion to compel and extend the deadline.

Please advise as to your availability for a quick call. I can make myself available anytime tomorrow after 11:00 a.m. or on Monday with fairly open availability.

Dan

Daniel A. Brown

Williams Kastner | Attorney at Law

601 Union Street, Suite 4100

Seattle, WA 98101-2380

P: 206-233-2949 | F: 206-628-6611 | M: 206-795-4166

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WASHINGTON OREGON

From: Brown, Daniel

Sent: Friday, December 2, 2022 11:24 AM

To: Dmitri Iglitzin <iglitzin@workerlaw.com>

Cc: Bulis, Diane <dbulis@williamskastner.com>; Cox, Jessica <JCox@williamskastner.com>

Subject: RE: Miller & Spaulding v. Sawant (USDC) deposition notices

Dmitri,

I think I've been really clear. It is going to be in-person, it will have to be now after the discovery cutoff, especially since you have yet to produce the documents per our discovery which are overdue. So, you need to confirm when we will have all the responsive documents and we can pick a mutually agreeable date shortly after that for her deposition. If you are not going to produce all responsive documents in a short time and are not agreeing to produce Ms. Sawant after that for her deposition live, then we will need to bring a motion to compel.

As for Mr. Hawkins' deposition, he is in England through the end of the year, but can be available for an early start deposition (say 8:00 or 8:30) on December 13, 20, or if need be the 23rd. Please advise if you want to depose him on any of those dates right away so we can lock it down and get an appropriate stipulation filed.

Daniel Brown

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Seattle, WA 98101-2380
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www.williamskastner.com

WASHINGTON OREGON

From: Dmitri Iglitzin <iglitzin@workerlaw.com>

Sent: Thursday, December 1, 2022 5:12 PM

To: Brown, Daniel <dbrown@williamskastner.com>

Cc: Bulis, Diane <dbulis@williamskastner.com>; Cox, Jessica <JCox@williamskastner.com>; Jacob Harsen <harsen@workerlaw.com>; Darin Dalmat <dalmat@workerlaw.com>; Jennifer Woodward <woodward@workerlaw.com>

Subject: RE: Miller & Spaulding v. Sawant (USDC) deposition notices

Dan:

To make sure I fully understand your e-mail, are you saying that you not available to take Councilmember Sawant's deposition on any date prior to December 9, regardless of whether it would be in person or via Zoom, and also saying that you are not willing to have her deposition be conducted via Zoom, regardless on what date it might be scheduled?

Thanks in advance for clarifying,

Dmitri Iglitzin



**BARNARD
IGLITZIN &
LAVITT LLP**

DMITRI IGLITZIN | Partner (he/him)
DIR: 206.257.6003 | FAX: 206.257.6038
18 West Mercer Street, Suite 400, Seattle, WA 98119

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From: Brown, Daniel <dbrown@williamskastner.com>
Sent: Wednesday, November 30, 2022 4:37 PM
To: Dmitri Iglitzin <iglitzin@workerlaw.com>
Cc: Bulis, Diane <dbulis@williamskastner.com>; Cox, Jessica <JCox@williamskastner.com>
Subject: RE: Miller & Spaulding v. Sawant (USDC) deposition notices

Dmitri,

Unfortunately, we will be taking Ms. Sawant's deposition in-person at our offices and we do not have any earlier dates available that work. That being said, we could take her deposition on either December 13 or 14. Please check with her and your schedule to see if that works and we can execute an appropriate stipulation to extend the discovery cutoff to accommodate that deposition as we indicated earlier we would be willing to do.

Dan

Daniel Brown

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Seattle, WA 98101-2380
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www.williamskastner.com

WASHINGTON OREGON

From: Dmitri Iglitzin <iglitzin@workerlaw.com>
Sent: Sunday, November 27, 2022 9:22 PM
To: Brown, Daniel <dbrown@williamskastner.com>
Cc: Bulis, Diane <dbulis@williamskastner.com>; Cox, Jessica <JCox@williamskastner.com>; James E. Lobsenz <Lobsenz@carneylaw.com>; Jennifer Woodward <woodward@workerlaw.com>; Jacob Harsen <harsen@workerlaw.com>; Darin Dalmat <dalmat@workerlaw.com>; Jennifer Robbins <robbins@workerlaw.com>
Subject: RE: Miller & Spaulding v. Sawant (USDC) deposition notices

Hi, Dan. Unfortunately, Councilperson Sawant and I are both not available on December 9, but we *are* available, via Zoom, on December 7, also at 10:00 a.m. Please confirm if that date, time, and manner of deposition are acceptable to you, and if so, we will wait for you to send out the appropriate Zoom/court reporter information.

Regards,

Dmitri Iglitzin
Counsel for Councilperson Sawant

DMITRI IGLITZIN | Partner | Barnard Iglitzin & Lavitt LLP
DIR: 206.257.6003 | **FAX:** 206.257.6038

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From: Brown, Daniel <dbrown@williamskastner.com>
Sent: Tuesday, November 22, 2022 4:51 PM
To: Dmitri Iglitzin <iglitzin@workerlaw.com>; James E. Lobsenz <Lobsenz@carneylaw.com>

Cc: Bulis, Diane <dbulis@williamskastner.com>; Cox, Jessica <JCox@williamskastner.com>

Subject: Miller & Spaulding v. Sawant (USDC) deposition notices

In light of the Court's order denying the motion to continue, enclosed please find Plaintiff's three notices of depositions (Defendant's and her two experts'). Hard copies will be mailed shortly.

Thank you.

Daniel A. Brown

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WASHINGTON OREGON

From: Dmitri Iglitzin <iglitzin@workerlaw.com>

Sent: Tuesday, March 15, 2022 3:04 PM

To: Cox, Jessica <JCox@williamskastner.com>; James, Sean <SJames@williamskastner.com>

Cc: Brown, Daniel <dbrown@williamskastner.com>; Gabe Frumkin <frumkin@workerlaw.com>; James E. Lobsenz <Lobsenz@carneylaw.com>; Jennifer Woodward <woodward@workerlaw.com>

Subject: RE: Miller & Spaulding v. Sawant (USDC)

Thank you. Of course, I would like a chance to see and approve the revised version, before it is filed.

Dmitri



**BARNARD
IGLITZIN &
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DMITRI IGLITZIN | *Partner* (he/him)

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From: Cox, Jessica [<mailto:JCox@williamskastner.com>]

Sent: Tuesday, March 15, 2022 1:59 PM

To: Dmitri Iglitzin; James, Sean

Cc: Brown, Daniel; Gabe Frumkin; James E. Lobsenz; Jennifer Woodward

Subject: Re: Miller & Spaulding v. Sawant (USDC)

Sounds good. We will adjust and file with the court. Thank you.

From: Dmitri Iglitzin <iglitzin@workerlaw.com>

Sent: Tuesday, March 15, 2022 11:35 AM

To: Cox, Jessica <JCox@williamskastner.com>; James, Sean <SJames@williamskastner.com>

Cc: Brown, Daniel <dbrown@williamskastner.com>; Gabe Frumkin <frumkin@workerlaw.com>; James E. Lobsenz <Lobsenz@carneylaw.com>; Jennifer Woodward <woodward@workerlaw.com>

Subject: RE: Miller & Spaulding v. Sawant (USDC)

Providing for additional time. So that the trial would be set for the middle of May, 2022, Discovery cut-off is December 11, 2021. Etc.